the boundary of an inland proprietor he becomes subject to loss by erosion, and has the right to gain by accretion. *Welles* v. *Bailey*, 55 Conn. 292; *Foster* v. *Wright*, 4 C. P. D. 438. The court in the principal case, though accepting the general principle of loss by erosion, holds that when the boundary to property is made fixed and definite, as it is in the case of property not originally riparian, it will not change with the movements of the shore line. This view finds support when at the time of the conveyance of the property an intention was clearly shown by the terms of the conveyance or the nature of the waters that riparian rights should be withheld from the land. *Cook* v. *McClure*, 58 N. Y. 437; *Gilbert* v. *Eldridge*, 47 Minn. 210, 49 N. W. 679. There was no such intention in the principal case and it is submitted that the opposite result would be preferable.

WATERS AND WATERCOURSES — PERCOLATING AND SURFACE WATERS — EXTENT OF RIGHTS. — The plaintiff collected artesian, spring, and seepage water from his land into a pond. In conveying this water by ditches to different parts of the land considerable quantities percolated through the soil. This artificially created percolating water was conveyed into a ditch running along a right of way belonging to the defendant, who used the water for irrigating purposes for nine years. *Held*, that the defendant acquired no right to the water. *Garns* v. *Rollins*, 125 Pac. 867 (Utah).

According to the English rule, a landowner can acquire no rights in the flow of percolating waters from other lands to his own, since the owner of the soil to whom they belong may dispose of them as he pleases. *Chasemore* v. *Richards*, 7 H. L. Cas. 349; *Frazier* v. *Brown*, 12 Oh. St. 294. The lower court in the principal case, proceeding on the erroneous ground that the waters in question were natural percolating waters, refused to apply the English doctrine. Instead, the reasonable use doctrine, adopted by a majority of American courts, was followed, giving an adjoining landowner a vested right in the flow of such percolating waters as are not necessary to the reasonable use of another's land. *Katz* v. *Walkinshaw*, 141 Cal. 116, 74 Pac. 766; *Smith* v. *City of Brooklyn*, 18 N. Y. App. Div. 340, 46 N. Y. Supp. 141. See 16 HARV. L. REV. 295. The water in question, however, was not naturally percolating, but merely surface or waste water; and on this ground the upper court in accordance with all past authority held that an adjoining landowner could acquire no rights in its flow from the land of another. *Broadbent* v. *Ramsbotham*, 11 Exch. 602. See *Frazier* v. *Brown*, *supra*, 300. It is submitted that the argument of social utility, which was mainly responsible for the introduction of the reasonable use doctrine as to percolating waters, is equally applicable to surface waters. See 1 WIEL, WATER RIGHTS IN THE WESTERN STATES, 3 ed., § 59.

BOOK REVIEWS.

THE UNDERLYING PRINCIPLES OF MODERN LEGISLATION. By W. Jethro Brown. London: John Murray. 1912. pp. xx, 331.

Dr. Brown has essayed in his latest book a social philosophical theory of law and of law-making. Apart from his method of accomplishing the task, his undertaking it at all is an event of capital importance, since it evidently marks the swinging into line of English jurists in the general movement toward philosophical jurisprudence. But his method has significance also. On the Continent, the return to a philosophy of law came by way of reaction from the historical school, and yet chiefly from a development of that school. Kohler's